IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5865 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

JASABHAI LAKHABHAI

Versus

STATE OF GUJARAT

Appearance:

MR HRADAY BUCH for MR ND NANAVATI for Petitioners

MR MA BUKHARI for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 04/07/2000

ORAL JUDGEMENT

1. The matter has come up for preliminary hearing in the Court on 5/7/1999. Notice, pending admission, returnable on 28th July, 1989 was ordered. Thereafter, this matter has come up for admission in the Court on 1st

October, 1990, that is after more than one year and two months, and it was admitted.

2. The respondents have not filed reply to the Special Civil Application before its admission. Thereafter, this matter has come up for hearing after about 10 years of the admission, but the respondents have not cared to file the reply thereafter. The averments made in the Special Civil Application stand uncontroverted and same are taken to be admitted.

3. The petitioners were Mul-Girasdars of villages Malia-Hatina, Vadala, Galodar, Janadi and Ghumti under Malia-Hatina Taluka of Junagadh District. The Land Reforms Act, 1951 was enacted by the Saurashtra Legislature Assembly whereby the right, title and interest of Girasdars in their Girasdari Villages was extinguished on payment of cash compensation and an area of "Gharkhed" land. The petitioners are allotted 48 acres of Gharkhed Land in Malia-Hatina and Vadala villages under the Act aforesaid.

4. The Act aforesaid later on came to be amended and the right, title and interest of Girasdars' in Gamtal and certain other lands for which notifications were issued from time to time under section-3 of the Act were abolished from the date of such notifications and for the oust of the lands which were not comprising in the said Notifications, the Girasdars were made occupants under section-4 (b) of the Act.

5. The petitioners stated that Government of Saurashtra decided not to acquire certain Gamtal lands belonging to the Girasdars and allowed them to retain such lands as occupants, with a view to enable them to build their houses, etc. in the villages in which they were allotted lands for personal cultivation. The area of such land, what the petitioners urge, was to be determined in accordance with the size of the Giras holding of each individual Girasdar. The petitioners submitted that each of the petitioners are entitle for 2000 Sq. yards of the Gamtal land in village Malia-Hatina.

6. The petitioners applied to Respondent no.3 and other Revenue Authorities time and again for allotment of 4000 sq. yards of land in village Malia-Hatina, that is, 2000 sq. yards for each. However, their efforts did not meet with success for a very long time. The respondents agreed to allot the land to the petitioners at other villages such as Junagadh, Porbandar or Keshod, what the

petitioners say that they have not taken any decision in this respect for a very long time. Ultimately, the order, Annexure-A, was came to be made by the Revenue Department of the State of Gujarat under which the claim of the petitioners for allotment of the land was accepted. The respondent no.2 was directed to acquire other land under the provisions of the Land Acquisition Act and allot the same to the petitioners, if the Government land is not available for the allotment. Alternatively, it is directed by the respondent no.1 to respondent no.2 to pay the petitioners a sum representing the market value of land admeasuring 3362 sq. yards so that they may be able to purchase the land on their own.

7. It is the case of the petitioners that the Mamlatdar of Malia-Hatina Taluka called the petitioners and required them to explore the possibility of vacant plots of land belonging to private parties being available for acquisition or for allotment by private negotiations. The petitioners by putting efforts, ultimately, could find out the names of such private owners of the vacant land who were ready and willing to sell their lands at a price ranging between Rs.250/- to Rs.350/- per sq. yard. The Mamlatdar, as per the case of the petitioners, could not finalise the negotiations nor did he make any report to respondent no.2 for acquiring the said land of the private parties as per the directions of respondent no.1. However, the Mamlatdar concerned, on its letter dated 4th January, 1984 asked the petitioners to declare their options whether they wanted the land or cash compensation in lieu thereof. Though the petitioners were interested in the land, the Mamlatdar, Malia Taluka and Deputy Collector of Veraval called them personally and persuaded to opt for cash compensation as there would occasion delay in acquiring land, besides legal complications as to whether the purpose for which the lands would be acquired would be a "public purpose" within the meaning of Section-4 of the Land Acquisition Act, 1994. Ultimately, on negotiations between the petitioners and the local Revenue Officers, the petitioners agreed for cash compensation calculated on the basis of the price of the land being rated at Rs.200/- per sq. yard. Accordingly, they submitted their written claim for this cash compensation amounting to Rs.6,72,000/-. The petitioners submit that respondent no.1 placed at the disposal of the Collector, a sum of Rs.3,37,000/- to be paid to the petitioners. The Collector made an Order on 31st January, 1984 and thereunder, he distributed this amount of Rs.3,37,000/amongst the petitioners. The petitioners have accepted this amount under the protest reserving

their right to claim the remaining amount from the respondent-Government. Written protest was filed on 6th August, 1984.

8. The petitioners have said in paragraph no.14 of the Special Civil Application that the Mamlatdar made a report in their favour on or about 10th January, 1985 and recommended to the Collector through the Deputy Collector, Veraval that the remaining amount should also be paid to the petitioners. The petitioners made several applications to the State Government and the Collector, but without any result. The last representation was submitted on 21st April, 1098 and prayer was made therein to pay the petitioners remaining amount with interest 18% per annum from 20th October, 1983 till 20th May, 1987 aggregating to Rs.2,16,860/-, thus, a total amount of Rs.5,43,060/-. The copy of this representation has also been sent to the Collector to the District and other Officers. Thereafter also, the petitioners made many efforts to get this amount. However, by a cryptic letter dated 6th June, 1988, the petitioners were asked to contact respondent no.1-Collector, Junagadh in regard to their claim. They contacted the Collector, but nothing has been done and hence, this Special Civil Application.

9. These averments made by the petitioners have not been denied. The State of Gujarat has not denied the claim of the petitioners. The State of Gujarat directed the petitioners to contact the Collector of Junagadh and the Collector, Junagadh has not given out any reason whatsoever, not to give this amount to the petitioners. The averments made in the Special Civil Application, at the cost of the repetition to be stated, are not controverted and coupled with the fact that there is nothing on the record from the side of the respondents to give out any justification not to give full amount to the petitioners, hence, the claim deserves acceptance.

10. The respondent, State of Gujarat, is impersonal and despite of the fact, it spent substantial amount of its revenue in payment of salaries, its officers and/or employees are not faithful to it. They fail to discharge their duties honestly, sincerely and effectively. They are sincere to take the salary monthly. They are very cautious and aware of their rights, revision of the pay scales, increase in the dearness allowance, giving them perks and facilities, etc. It is unfortunate in the country that the employees and/or officers have learned only one thing to be cautious and aware of their rights. In substantial number of cases, the replies are not being filed and possibility of losing a good case by the State

Government cannot be over ruled. The officers are not accountable for lapse, errors, inaction, etc., even to the Government, what to say to the peoples of the country. Unless, accountability is there, it is strictly enforced and not only the loss suffered by the State Government is to be recovered from those erring and defaulting officers, but appropriate actions against them be taken, the house of the Government will not be corrected. It is the peoples money and each penny of which has to be saved by the officers and/or employees who are there to take care of this impersonal State. It is not gainsay that the position of the State Government is even worse than that of a minor, orphan and widow. For this class of the persons, some persons may have sympathy, but for this poor State nobody bothers and has any sympathy also. The officer and/or employees seems to be busy with their own affairs, rights and claims. If we go by what they are everyday claiming i.e higher pay scales, allowances, perks, facilities, how far they are justified when reciprocally they are not honestly, sincerely, and diligently discharging their duties. It is only stated for consideration and care of the State of Gujarat as this Court has no administration and disciplinary control over this erring and defaulting officers and/or employees of the State of Gujarat.

11. In the result, this Special Civil Application succeeds and the same is allowed. As the claim of the petitioner is not contested, it deserves to be granted with interest. The State of Gujarat is directed to pay Rs.3,36,200/- to the petitioners together with interest thereon @ 12% per annum from 20th October, 1993 to the date of the payment thereof. The State of Gujarat is further directed to pay Rs.2000/- as the costs of this petition to the petitioners. Rule is made absolute accordingly. The Chief Secretary, State of Gujarat is hereby directed to hold an enquiry in the matter and whosoever is found responsible for non filing of the reply to the petition, on proof of the same, appropriate penalty be given and this amount which has to be paid to the petitioner be recovered from him. The copy of this order be sent to the Chief Secretary, State of Gujarat with further direction from time to time to report to this Court progress of the action taken by him in the matter. The first report to be submitted within a period of three months from the date of receipt of copy of this order and finally matter be decided within six months of the receipt of the writ of this order and matter be reported to the Court.

(S.K. Keshote, J.)

(kamlesh)